

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID E. KATES,

Plaintiff,

v.

C.O. ROBERT PACKER, *et al.*,

Defendants.

NO. 3:13-CV-01525

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SAPORITO)

**ORDER**

**NOW**, this 6<sup>th</sup> day of February, 2018, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 250) is **ADOPTED in part and REJECTED in part**.
- (2) Defendants' Motion for Summary Judgment (Doc. 226) is **GRANTED in part and DENIED in part** as follows:
  - (A) Defendants' motion for summary judgment in favor of Defendant Eroh on Plaintiff's failure to intervene during the "landing" incident claim is **GRANTED**.
  - (B) Defendants' motion for summary judgment is **DENIED** in all other respects.
- (3) The matter is placed on this Court's **June 2018** trial list. A pretrial scheduling order will follow in due course.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge